

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JUDITH TRACKWELL,)	
)	
Plaintiff,)	4:05CV3171
)	
v.)	
)	
B & J PARTNERSHIP, CLAY F.)	ORDER
SMITH, WILLIAM D. SMITH, A.)	
JOYCE SMITH, CAPITOL TITLE,)	
HOMESERVICES OF NEBRASKA,)	
CHICAGO TITLE, HOME REAL)	
ESTATE, HOME SERVICES OF)	
AMERICA, F. WARD HOPPE, SUSAN)	
LADUKE, JAMES LAMPHERE,)	
ROBERT MOLINE, MICHAEL)	
TAVLIN, and WOODS BROTHERS)	
REALTY,)	
)	
Defendants.)	
)	

The plaintiff filed a Third Amended Complaint that was not signed by her counsel of record. Filing 118. The court's Memorandum and Order dated September 26, 2006, filing 120, ordered:

Plaintiff is given ten days to either (a) file a motion for leave to file Fourth Amended Complaint in accordance with this memorandum and order; OR (b) file a copy of the Third Amended Complaint signed by plaintiff's new counsel. In the absence of either of these actions, the Third Amended Complaint will be stricken, and the operable complaint will be the Amended Complaint, filing 8.

Filing 120, p. 2.

The plaintiff, through her counsel, filed a Third Amended Complaint, filing 121. Filing 121 is for all substantive

purposes identical to filing 118, and it is signed by plaintiff's counsel of record.

Both filing 118 and 121 identified the sole defendant as B&J Partnership LTD, a Nebraska limited partnership. The filing 121 Third Amended Complaint was thereafter promptly amended to allege the state of citizenship for all partners of B&J Partnership. Filing 122. The filing 122 Third Amended Complaint therefore includes the factual basis for the court's exercise of federal diversity jurisdiction. In all other respects, filing 122 is identical to filing 121.

Based on plaintiff's Third Amended Complaint, filing 122, Clay F. Smith, William D. Smith, A. Joyce Smith, Capitol Title, Homeservices of Nebraska, Chicago Title, Home Real Estate, Home Services of America, F. Ward Hoppe, Susan Laduke, James Lamphere, Robert Moline, Michael Tavlin, and Woods Brothers Realty, are no longer identified as defendants in this lawsuit.

IT THEREFORE HEREBY IS ORDERED:

1. The Third Amended Complaint, filing 118, and the Third Amended Complaint, filing 121, shall be stricken from the court's record.
2. On or before October 12, 2006, the defendant, B&J Partnership, L.T.D. shall respond to the plaintiff's filing 122 Third Amended Complaint.

DATED this 28th day of September, 2006.

BY THE COURT:

s/ *David L. Piester*

David L. Piester
United States Magistrate Judge